

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

Traditionalist American Knights of the	)	
Ku Klux Klan, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 4:12-cv-2085-AGF
	)	
City of Desloge, Missouri,	)	
	)	
Defendant.	)	

**MOTION FOR CONTEMPT**

Come now Plaintiffs and move this Court for entry of an order finding Defendant, City of Desloge, Missouri, in civil contempt. In support, Plaintiffs state:

1. Plaintiffs, an organization and one of its members, brought this action after being prevented from distributing literature on the streets of the City of Desloge, Missouri. They distribute informational leaflets about issues of public concern. Reasonably fearing arrest and imposition of a fine or jail sentence, they sought declaratory and injunctive relief in this Court.

2. On December 27, 2012, this Court issued a preliminary injunction, finding Plaintiffs were likely to prevail on the merits of their First Amendment challenge because the City of Desloge's speech restrictions criminalized a substantial amount of First Amendment protected activity and were not narrowly tailored to serve a significant government interest. In particular, this Court noted that the restrictions were "not ... limited to solicitation" and prohibited the distribution of literature on medians and shoulders/parking lanes as well as on every street in Desloge at all times and, thus, were not "tailored to particular times, problematic

locations, or circumstances under which the City might have legitimate concerns about traffic safety and congestion.”

3. With the preliminary injunction in hand, Plaintiffs’ members distributed literature in Desloge on January 12, 2013, without significant incident.

4. On January 15, 2013, Plaintiffs filed their Amended Complaint. In Count I, they asserted that the speech restrictions violated the Free Speech Clause of the First Amendment.

5. On March 19, 2013, this Court entered a consent judgment. (Doc. # 36). Judgment was entered in favor of Plaintiffs and against Defendant on Count I. *Id.* at ¶ 4. The December 27, 2012, order was made permanent. *Id.* at ¶ 3. The consent judgment allowed that “Defendant[] may move to dissolve or amend the permanent injunction issued herein pursuant to Fed.R.Civ.P. 60(b) within sixty days of any amendment to § 615.070.” *Id.* at ¶ 7.

6. On April 26, 2013, eight members of Plaintiff Traditionalist American Knights, including Plaintiff Frank Ancona, returned to Desloge to again distribute literature. Within minutes of their arrival, they were approached by a police officer who told them that literature distribution was limited to sidewalks and they could not enter any street. Ancona mentioned the existence of the consent judgment to the officer. He was asked to accompany the officer to the police department and voluntarily did so. Once there he was provided a copy of a new ordinance, which prohibits the distribution of literature to any occupant of any vehicle in the City of Desloge.

7. In light of the officer’s intention to enforce the speech restrictions, TAK members did not resume leafleting and left town.

8. For the reasons set forth in the accompanying memorandum in support, the enforcement of the prohibition on the distribution of literature to any occupant of any vehicle is in disobedience or resistance to the Consent Judgment entered by this Court.

WHEREFORE Plaintiffs move this Court for entry of an order finding Defendant in contempt and imposing appropriate sanctions.

Respectfully submitted,

/s/ Anthony E. Rothert

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ATTORNEYS FOR PLAINTIFFS

### **CERTIFICATE OF SERVICE**

I hereby certify that on April 29, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and a copy was made available to all electronic filing participants:

/s/ Anthony E. Rothert